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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,040	09/11/2000	Willy De Meyer	31068-2	9743

7590

02/10/2004

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EXAMINER
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TORRES VELAZQUEZ, NORCA LIZ

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/581,040

Applicant(s)

DE MEYER ET AL.

Examiner

Norca L. Torres-Velazquez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 42-49 is/are pending in the application.
- 4a) Of the above claim(s) 46-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Newly submitted claims 46-49 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 46-49 are directed to a method of making that is classified in class 156.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 46-49 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Response to Arguments***

2. Applicant's arguments see pages 5-6 of response, filed November 20, 2003, with respect to claims 42-45 have been fully considered and are persuasive. The 35 U.S.C. 112, second paragraph rejection of claims 42-45 has been withdrawn.

However, it is noted that the term "textile bond" is being defined by Applicants to bonding means such as "stitching" as it taught in US 5,269,863 (as cited by Applicants). It is further noted that for examining purposes the claimed stiffening is considered as one element that forms a textile bond with the reinforcement layer (another element) to form that claimed textile reinforcement layer. This interpretation is given since Applicants didn't address it in their response.

3. Applicant's arguments filed November 20, 2003 have been fully considered but they are not persuasive.

a. With regards to the rejection of claims 42-45 under 35 U.S.C. 102(b) rejection over PLONTGES (US 4,857,379), Applicants argue that Plontges does not disclose a

“stiffening selected from the group of individual threads, individual yarns and a textile product” and indicate that the present invention uses a stiffening bonded with the reinforcement layer to help increase rigidity and not tensile strength of the reinforcement layer as in Plontges.

It is the Examiner's interpretation that the structure of fibers of the Plontges reference provides with a reinforcement structure with materials that have different melting points and on Column 3, lines 15-31, in which the reference describes how the threads of the fabric act upon changes of temperature. While the reference describes the properties of their reinforcement material in terms of strength, it is the Examiner's position that the claimed rigidity would be inherent to the materials disclosed by Plontges particularly when in Applicant's specification also teaches the use of high tensile strength materials to produce the strengthening effect in the reinforcing material.

Therefore, claims 42-45 remain rejected over Plontges.

***Claim Rejections - 35 USC § 102/103***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 42-45 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over PLONTGES et al. (US 4,857,379).

PLONTGES et al. discloses a sheet like structure of fibers useful as reinforcement. The fabric incorporates plastic yarns in the warp and the weft direction. The yarns consist of a material, e.g. polyester or polyolefin that shrinks under the impact of a temperature below the melting point of the material. After the impact of the heat and the consequent shrinking, the material reassumes its original firmness. (Refer to Abstract, also Column 2, lines 46-61) The reference teaches constructions in which the warp and weft threads are interwoven with each other, and also a construction that includes a knitted fabric construction with a bonding chain holding together two layers of threads. (Column 1, lines 56 through Column 2, lines 1-4) The reference further teaches the threads 1, which soften under the action of heat, provide a good bond with the applied plastics material. (Column 3, lines 3-6)

PLONTGES et al. further teaches that in a tubular construction the structure has high-tenacity inextensible threads 2 extending in the longitudinal direction of the tube if the component is to be loaded in the direction of its length, while the threads 1 which are extensible under deformation conditions run in the transverse direction. The reverse construction is also possible, for example for a tube, which is loaded by internal pressure. (Column 4, lines 41-49).

On Column 5, the table shows the preferred values for the threads employed including the composition and melting points of threads 1, threads 2 and bonding chain 3. It shows that the bonding chain with a higher melting point than threads 2 of the structure.

Therefore, the reference above discloses a reinforcement layer in the form of a woven or knitted fabric that includes a stiffening material in the form of first threads with a lower melting

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point than second threads. In the alternative, the reference teaches an embodiment that includes a laid fabric of two superimposed layers of threads or yarns 1 and 2 that reads on the stiffening textile product of the present application, and a knitted fabric that reads on the reinforcement layer. In the preferred values for the threads of the reference, the table shows that the bonding chain is made of polyester yarns with a melting point higher than the polyolefin PP threads 2.

Although Plontges does not explicitly teach the claimed stiffening property, it is reasonable to presume that the stiffening is inherent to the reinforcement material of Plontges. Support for said presumption is found in the use of like materials (i.e. sheetlike structure of fibers with threads of material that is responsive to changes in temperature by increasing or decreasing its strength). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of stiffening would obviously have been present one the Plontges product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

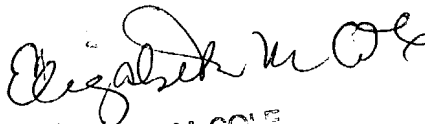
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Norca L. Torres-Velazquez  
Examiner  
Art Unit 1771

February 2, 2004

  
ELIZABETH M. COLE  
PRIMARY EXAMINER